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ONTARIO ,LAW REFORM COMMISSION

REPORT

THE EXECUTION ACT:
EXEMPTION OF GOODS FROM SEIZURE

December 9, 1966

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The Ontario Law Reform Commission was set up by section 1 of The Ontario Law Reform Commission Act, 1964, for the purpose of promoting the reform of the law and legal institutions. The Commissioners are —

H. Allan Leal, Q.C., LL.M., LL.D.,	Chairman
Honourable James C. McRuer, LL.D.	
Honourable Richard A. Bell, P.C., Q.C.	
W. Gibson Gray, Q.C.	
William R. Poole, Q.C.	

Mr. William B. Common, Q.C. is Counsel to the Commission. The Secretary of the Commission is Miss A. F. Chute and its offices are at Room 470, Parliament Buildings, Toronto, Ontario, Canada.

Canadian provinces, the United Kingdom, and the United States. The Commission has also had the benefit of a comprehensive brief submitted by Lloyd W. Houlden, Esq., Q.C., a solicitor with wide experience in the field of creditors' rights. L. R. MacTavish, Esq., Q.C., Senior Legislative Counsel for the province, made available to the Commission a most useful memorandum relating the history of the changes in the law of exemptions from 1937 to the present time. Maurice J. Coombs, Esq., the research assistant to the Commission, prepared a comprehensive memorandum dealing with the general historical background.

3. Although the Commission is aware that in some jurisdictions the subject of exemptions is dealt with in a separate statute, we see no substantial advantage in this and, accordingly, recommend that the treatment of this subject be retained in The Execution Act.

4. The broader question of the enforcement of judgment debts, of which the law of exemptions forms only a part, is being considered by this Commission and a report will be made on this subject at a later date.

5. The law of exemptions is very old, but its fundamental philosophy has remained unchanged. Simply stated, it is that a debtor, like any other person, is not to be deprived of the basic necessities of life, such as food, clothing and accommodation, nor is he to be denuded of the essential tools or equipment necessary for him to carry on his business, profession or calling.

6. As early as 1285, the Statute of Westminster II, 13 Edw. I, c. 18 in making chattels of the debtor available for satisfaction of the claims of judgment creditors, exempted "oxen and beasts of the plow". This would appear to be the first provision governing exemption from seizure under execution. We set out in Appendix A, in some detail, the development of the law of exemptions in this jurisdiction down to 1937. During the whole of this period the legislative approach was to name specific articles that were exempt from seizure. For an appreciation of the changes made by subsequent legislation, it is useful to set out the provisions of the law as it appeared in R.S.O. 1937, c. 125:

"2. The following chattels shall be exempt from seizure under any writ issued out of any court, namely:

- (a) The beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family;
- (b) The necessary and ordinary wearing apparel of the debtor and his family;
- (c) One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and a shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve teacups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic

use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated not exceeding in value \$200;

- (d) All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value \$80;
- (e) One cow, six sheep, four hogs, twelve hens, and one team of horses and harness necessary for the same, in all not exceeding the value of \$400, and food therefor for thirty days, and one dog;
- (f) Tools and implements of, or chattels ordinarily used in, the debtor's occupation, to the value of \$200; but if a specific article claimed as exempt be of a value greater than \$200 and there are not other goods sufficient to satisfy the writ such article may be sold by the sheriff who shall pay \$200 to the debtor out of the net proceeds, but no sale of such article shall take place unless the amount bid therefor shall exceed \$200 and the cost of sale in addition thereto;
- (g) Fifteen hives of bees.

3. The debtor may, in lieu of tools and implements or of chattels ordinarily used in his occupation referred to in clause f of section 2, elect to receive the proceeds of the sale thereof up to \$200, in which case the officer executing the writ shall pay the net proceeds of the sale if the same do not exceed \$200, or, if the same exceed \$200, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under clause f.

4. The sum to which a debtor is entitled, under clause f of section 2, or under section 3, shall be exempt from attachment or seizure at the instance of a creditor.

5. Chattels exempt from seizure shall, after the death of the debtor, be exempt from the claims of his creditors, and his widow shall be entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor shall be entitled to them.

6. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure.

7. Nothing herein shall exempt any article enumerated in clauses c to g of section 2 from seizure to satisfy a debt contracted for such article.

8. The sheriff to whom a writ of execution against lands is delivered for execution may seize and sell thereunder the lands of the execution debtor, including any lands whereof any other person is seized or possessed in trust for the execution debtor."

7. In 1937 a private member's Bill (No. 98) was introduced in the legislature which was the forerunner of substantial changes in the legislation that took place in 1942. This Bill was not reported out of the Standing Committee on Legal Bills. In 1941 a Select Committee of the Legislature was set up to inquire into the Administration of Justice in the province and the report of this Committee recommended, inter alia, a major revision in the provisions of The Execution Act governing the exemption of chattels.

8. Following the Committee's report a Bill (No. 48) was introduced in the legislature in 1942. Its explanatory note read:

"Section 2 of The Execution Act which prescribes the exemption from execution to which a debtor is entitled is very old. By mentioning specific articles throughout the

section the result is that while it applies in the case of a man engaged in a particular calling so as to give him wide exemptions, it may apply to a man engaged in another calling so as to give him comparatively small exemption from execution.

The section is re-enacted in a more general way so that it will apply as equally and equitably as possible to every person irrespective of the calling in which he is engaged."

The relevant portions of the Bill as enacted by Statutes of Ontario 1942,

c. 16 read as follows:

"2. The following chattels shall be exempt from seizure under any writ issued out of any court:

- (a) The household furniture, utensils and equipment which are contained in and form part of the permanent home of the debtor, provided that this clause shall not apply to furniture, utensils or equipment purchased for defeating the claims of creditors and provided further that in the case of a writ issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family the exemption under this clause shall be limited to household furniture, utensils and equipment not exceeding in value \$200;
- (b) The necessary and ordinary wearing apparel of the debtor and his family;
- (c) In the case of a debtor other than a person engaged in the tillage of the soil or farming, such food as the debtor actually has in his possession for the purposes of consumption by himself and his family and in the case of a person engaged in the tillage of the soil or farming, such food as is necessary for consumption by himself and his family until the next harvest whether such food is in consumable state or requires to be milled, slaughtered or otherwise processed;
- (d) Such fuel as is within the debtor's home;

- (e) Live stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling, to the extent of \$600;
 - (f) In the case of a person engaged solely in farming or the tillage of the soil, sufficient seed to seed all his land under cultivation, not exceeding one hundred acres, as selected by the debtor and fourteen bushels of potatoes, and where seizure is made between the 1st day of October and the 30th day of April, such food and bedding as is necessary to feed and bed the live stock and fowl which are exempt under this section until the 30th day of April next following.
3. The debtor may, in lieu of the chattels referred to in clause e of section 2, elect to receive the proceeds of the sale thereof up to \$600, in which case the officer executing the writ shall pay the net proceeds of the sale if the same do not exceed \$600, or if the same exceed \$600, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under clause e.
 4. The sum to which a debtor is entitled, under clause e of section 2, or under section 3, shall be exempt from attachment or seizure at the instance of a creditor.
 5. and 6. [These sections remained unaltered.]
 7. Nothing herein contained shall exempt any article including fuel, except beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family and the necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article.
9. By the 1942 amendment to section 2 (f), the sheriff's express authority to sell a specific article ordinarily used in the debtor's occupation, where the value of the article exceeded the amount of the exemption, was deleted. This provision had been in the statute since 1899. The 1942

legislation as amended by 1957, 5-6 Eliz. II, c. 31 formed the basis of the law as it exists today. An amendment in 1957 drew a clear distinction between farmers and non-farmers with respect to the exemption of chattels necessary to and actually in use by the debtor in his business, profession or calling. The monetary value placed upon the farmer's exemption at this time was \$2,000 and that for non-farmers \$600. The value with respect to all other chattels was fixed at \$600. Also, the non-farmer debtor's right to elect to receive the proceeds of the sale of exempted goods was removed. The relevant provisions of the present law (R.S.O. 1960, c. 126) are as follows:

"2. The following chattels are exempt from seizure under any writ issued out of any court:

1. The household furniture, utensils and equipment that are contained in and form part of the permanent home of the debtor, provided that this paragraph does not apply to furniture, utensils or equipment purchased for defeating the claims of creditors, and provided further that, in the case of a writ issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family, the exemption under this paragraph is limited to household furniture, utensils and equipment not exceeding \$1,000 in value.
2. The necessary and ordinary wearing apparel of the debtor and his family.
3. In the case of a debtor other than a person engaged in the tillage of the soil or farming, such food as the debtor actually has in his possession for the purposes of consumption by himself and his family, and in the case of a person engaged solely in the

tillage of the soil or farming, such food as is necessary for consumption by himself and his family until the next harvest whether such food is in a consumable state or requires to be milled, slaughtered or otherwise processed.

4. Such fuel as is in the debtor's home.
5. In the case of a debtor other than a person engaged in the tillage of the soil or farming, live stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling, to the extent of \$1,000.
6. In the case of a person engaged solely in the tillage of the soil or farming, live stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling, to the extent of \$3,000.
7. In the case of a person engaged solely in the tillage of the soil or farming, sufficient seed to seed all his land under cultivation, not exceeding 100 acres, as selected by the debtor, and fourteen bushels of potatoes, and where seizure is made between the 1st day of October and the 30th day of April, such food and bedding as is necessary to feed and bed the live stock and fowl that are exempt under this section until the 30th day of April next following.

3. The debtor may, in lieu of the chattels referred to in paragraph 6 of section 2, elect to receive the proceeds of the sale thereof up to \$3,000, in which case the officer executing the writ shall pay the net proceeds of the sale if they do not exceed \$3,000 or, if they exceed \$3,000, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under that paragraph.

4. The sum to which a debtor is entitled under paragraph 5 or 6 of section 2 or under section 3 is exempt from attachment or seizure at the instance of a creditor.

5. Chattels exempt from seizure are, after the death of the debtor, exempt from the claims of his creditors, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them.

6. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure.

7. Nothing in this Act exempts any article including fuel, except beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family and the necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article."

10. As a result of the changes made in 1942, an important problem arose whether the sheriff was entitled to seize and sell a chattel owned by the debtor and used by him in his business, profession or calling where the value of the chattel exceeds the amount of the exemption. The uncertainty was resolved by the decision of the Court of Appeal in Robinson v. Robinson, [1965] O.R. 326 where the Court held that the sheriff was so entitled. It seems clear that the statutory provision to this effect which existed prior to 1942 should be restored.

11. We agree fully with the basic philosophy of granting exemptions to enable a judgment debtor to retain for himself and his family the necessities of food, household furnishings and fuel as well as those tools essential to him in his business, profession or calling. The exemptions should not be extended beyond a reasonable application of this philosophy. Since 1942 there has been no monetary limit on the exemption of household furniture, utensils and equipment that are contained in and form part of the permanent home of the debtor. The \$1,000 monetary limit referred to in paragraph 1 of section 2 of the Act applies only where

it is sought to seize goods in satisfaction of a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family. The end result is that a debtor may live in a house furnished with oriental rugs and expensive antique furniture free from the claims of his creditors while, on the other hand, a monetary limitation is imposed on other exemptions. The principle of placing a monetary limit on the exemption of household furniture should be restored to the Act.

12. The Commission, therefore, recommends

- (1) that the amount of the exemption for necessary and ordinary wearing apparel of the debtor and his family be fixed at \$1,000. This will permit the debtor to retain essential clothing for himself and his family, but will not permit him to claim exemption on luxury items. No monetary limit exists under the present law;
- (2) that a monetary limit of \$2,000 be imposed on the exemption pertaining to all household furniture, utensils, equipment, food and fuel. It is felt that the \$2,000 limitation will permit retention of articles required for modest living without providing debtors with the means for defeating creditors' claims by turning exigible chattels or cash into exempted household articles;

- (3) that the limitation of \$1,000 on tools, instruments and chattels ordinarily used by the debtor in his business, profession or calling be raised to \$2,000 and that provision be made that if a specific article claimed as exempt be of a value greater than \$2,000 and there are not other goods sufficient to satisfy the writ such article may be sold by the sheriff who shall pay \$2,000 to the debtor out of the net proceeds but no sale of such article shall take place unless the amount bid thereon shall exceed \$2,000 and the cost of the sale in addition thereto. This will make it clear that the sheriff may seize and sell a specific article where the value of the article exceeds the exempted value on paying the amount of the exempted value to the debtor. This provision will give statutory effect with proper safeguards to the decision of the Court of Appeal in the Robinson case. Under the amendment that we recommend a debtor will not be able to prevent seizure and sale of an expensive chattel, for example, a motor car, under the pretext that it is used in his business, but the right to claim the proceeds up to \$2,000 will be retained;
- (4) that the monetary exemption with respect to persons engaged solely in the tillage of the soil or farming be raised from \$3,000 to \$5,000. The special position of the farmer's exemption privileges, combining as it does both residential and

business assets, has been recognized for many years. The increase is recommended to reflect current values.

- (5) that the relevant sections of The Execution Act be amended accordingly.

13. The Act provides no procedure by which disputes concerning valuation may be resolved. The imposition of a limitation on a monetary value of exempted goods makes such a procedure essential. Accordingly, it is recommended that a new section be added to The Execution Act making provision that where a claim is made for exemptions and a dispute arises

- (a) the debtor or creditor may apply to the county or district court for summary determination of the dispute upon such notice as the court may direct, and
- (b) the sheriff may on his own motion make an application for directions.

14. The language of section 7 of the Act is unclear. We recommend the following wording:

"7. Nothing in this Act exempts any article from seizure to satisfy a debt contracted for the purchase of such article except beds, bedding and bedsteads (including cradles) in

ordinary use by the debtor and his family and the necessary and ordinary wearing apparel of the debtor and his family."

15. There are relatively few cases where the Crown sues the subject, but in those cases in which the Crown does seek to levy against goods in aid of execution there is no reason, in our opinion, why the basic philosophy of exempted goods should not be applied in favour of the subject. Accordingly, we recommend the enactment of a new section 7a with wording to the following effect:

"7a. The exemptions provided herein shall bind the Crown."

16. The principle of exempted goods cannot with reason be applied to corporations. Accordingly, we recommend the enactment of a new section 7b with wording to the following effect:


"7b. The exemptions provided herein are not available to a corporate debtor."

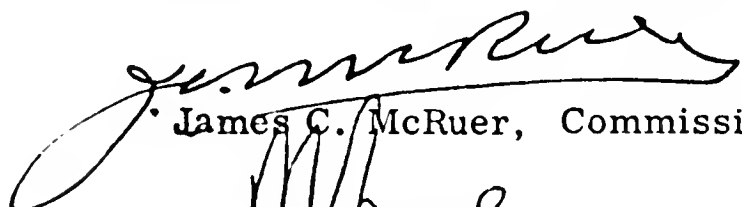
17. The former paragraph 1 of section 2 of the Act provided that chattels purchased for the purpose of defeating the claims of creditors should not be exempted. This principle should be retained and we recommend the enactment of a new section 7c with wording to the following effect:

"7c. The exemptions provided in this Act shall not apply to chattels purchased for the purpose of defeating the claims of creditors."

18. The existing legislation in Ontario exempts the food, clothing and accommodation facilities of a debtor even where the execution is in aid of a judgment to enforce the debtor's legal obligation to provide such necessities for his wife and family. This is probably an oversight and it has been corrected in the legislation in other jurisdictions. It seems clear, however, that the tools of the debtor's business, profession or calling must remain exempt to the stipulated monetary value. We recommend that the Act be amended to provide that there should be no exemption in the case of an execution issued upon a judgment or order for payment of maintenance by a husband to his wife or his former wife, as the case may be, or for the payment of maintenance for any child of the execution debtor, except with respect to the tools, instruments and chattels ordinarily used by the debtor in his business, profession or calling.

All of which is respectfully submitted.


H. Allan Leal, Chairman


James C. McRuer, Commissioner


Richard A. Bell, Commissioner


W. Gibson Gray, Commissioner


William R. Poole, Commissioner

December 9, 1966.

APPENDIX A

HISTORY OF EXEMPTIONS FROM SEIZURE UPON EXECUTION

The genesis of the law governing exempted property is found in the Statute of Westminster the Second 1285, 13 Edw. I, c. 18. Prior to this time the common law allowed execution to be had for money judgments by way of the writ fieri facias. The statute of 1285, however, created a new writ called elegit. The judgment creditor was allowed to choose (elegit) between proceeding by way of writ of fi. fa. or having delivered to him "all the chattels of the debtor (saving only his oxen and beasts of the plough) and the one-half of his lands, until the debt be levied upon a reasonable price and extent." This reference to "oxen and beasts of the plough" appears to be the earliest mention of exemptions. It should be noted in passing that resort to freehold lands could be had only if the goods were not sufficient and the lands were not to be sold but to be held till out of the rents and profits thereof the debt had been levied.

There would appear to have been no enlargement of exemptions from execution in England until 1845, 8 & 9 Vict., c. 127, s. 8 and consequently the law of exempted property that was introduced into the Province of Upper Canada, being part of the law of England as of October 15, 1792, was the exemption contained in the statute 13 Edw. I, c. 18.

The first provincial statute dealing with the subject of exemptions was 1830, 11 Geo. IV, c. 3, s. 9. This enactment provided that if a judgment

debtor had been imprisoned for debt on a capias ad satisfaciendum and had been given leave to reside upon the limits of the gaol, the judgment creditor could sue out any other species of writ to execute against the debtor's goods "provided always, that his, her or their household furniture, not exceeding twelve pounds ten shillings in value, together with the tools and implements of trade used by such person or persons in any trade or handicraft, shall not be liable to any such subsequent execution so to be sued out as aforesaid."

In the same year, 11 Geo. IV, c. 4 set out the general rule as to exemptions in the following terms:

"Whereas it is expedient that not only the bed and bedding of debtors should be exempt from being seized and sold in execution of judgment, but also that their necessary wearing apparel, and the bed and bedding of their family, should in like manner be exempt from such seizure and sale; ... in all cases wherein a writ of execution shall be issued upon any judgment obtained in any court in this province, it shall not be lawful for the sheriff ... to seize the necessary wearing apparel of the debtor or debtors ..., or of his, her, or their family, nor the bed or bedding in actual use by members of his, her, or their family, in satisfaction of such judgment, any law, usage, or custom, to the contrary notwithstanding."

The next enactment enlarging the categories of exemptions appeared in 1850, 13 & 14 Vict., c. 53, s. 89. In the Consolidated Statutes of Upper Canada 1859, c. 19, s. 151 the text appears as follows:

"151. Every Bailiff or Officer having an execution against the goods and chattels of any person, may by virtue thereof seize and take any of the goods and chattels of such person (excepting the wearing apparel and bedding of such person or his family, and the tools and implements of his trade to the value of twenty dollars, which shall to that extent be protected from the seizure,) and may also seize and take any money or bank notes and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money, belonging to such person."

Six years later, by 1856, 20 Vict., c. 57, s. 23, the Common Law Procedure Act enacted the provision which in C.S.U.C. 1859, c. 22, s. 254 reads as follows:

"254. The necessary wearing apparel, the bed and bedding, and one stove and the cooking utensils, of a party against whom any Writ of Execution issues, or of his family, and also the tools and implements of his trade to the value of sixty dollars, shall be protected from seizure under any execution from either of the said Superior Courts or from any County Court."

By 1877, when the first consolidation of the Ontario statutes appeared, the rules as to exemptions had crystallized in The Execution Act, R.S.O. 1877, c. 66, s. 2. Section 2 was the result of a combination of the two earlier enactments — 1859, 23 Vict., c. 25, s. 4 and 1864, 28 Vict., c. 8, s. 2. It stated as follows:

"2. The following chattels are hereby declared exempt from seizure under any writ, in respect of which this Province has legislative authority, issued out of any Court whatever in this Province, namely:

1. The bed, bedding and bedsteads in ordinary use by the debtor and his family;

2. The necessary and ordinary wearing apparel of the debtor and his family;

3. One stove and pipes, and one crane and its appendages, and one pair of andirons, one set of cooking utensils, one pair of tongs and shovel, one table, six chairs, six knives, six forks, six plates, six teacups, six saucers, one sugar basin, one milk jug, one tea pot, six spoons, all spinning wheels and weaving looms in domestic use, and ten volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use;

4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of forty dollars;

5. One cow, four sheep, two hogs, and food therefor, for thirty days;

6. Tools and implements of, or chattels ordinarily used in, the debtor's occupation to the value of sixty dollars;

7. Bees reared and kept in hives to the extent of fifteen hives."

With its appearance in the next consolidation in 1887 the section discloses an increase in the range and number of exempted household articles but limits had been imposed on the monetary value of exempted household furniture and animals whereas none had existed previously. In those classifications where limits on monetary value had previously existed the amounts were increased substantially, for example, the \$60 limit on tools and implements of, or chattels ordinarily used in, the debtor's occupation, was increased to \$100.

Finally, the 1887 consolidation incorporated the important change in the law made by 1887, 50 Vict., c. 10, s. 2 which provided that the

debtor could elect to receive the proceeds of the sale up to \$100 of essential tools, implements or other chattels ordinarily used by him in his occupation and this sum in turn should be exempt from attachment or seizure at the instance of a creditor.

The relevant sections of R.S.O. 1887, c. 64 read as follows:

"2. The following chattels are hereby declared exempt from seizure under any writ, in respect of which this Province has legislative authority, issued out of any Court whatever in this Province, namely:

1. The bed, bedding and bedsteads (including a cradle), in ordinary use by the debtor and his family;
2. The necessary and ordinary wearing apparel of the debtor and his family;
3. One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve tea cups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated, not exceeding in value the sum of \$150;
4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of \$40;

5. One cow, six sheep, four hogs, and twelve hens, in all not exceeding the value of \$75, and food therefor for thirty days, and one dog;

6. Tools and implements of or chattels ordinarily used in the debtor's occupation, to the value of \$100;

7. Bees reared and kept in hives to the extent of fifteen hives.

3. The debtor may in lieu of tools and implements of or chattels ordinarily used in his occupation referred to in subdivision 6 of section 2 of this Act, elect to receive the proceeds of the sale thereof up to \$100, in which case the officer executing the writ shall pay the net proceeds of such sale if the same shall not exceed \$100, or, if the same shall exceed \$100, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under said subdivision 6, and the sum to which a debtor shall be entitled hereunder shall be exempt from attachment or seizure at the instance of a creditor."

The consolidation in R.S.O. 1897, c. 77 saw no further changes from the 1887 provisions. Although the next revision and consolidation of the Ontario statutes was begun in 1906, the work was not completed until 1914. In the interval the revision commissioners from time to time reported the statutes re-drafted, revised and consolidated by them and they were adopted and passed by the legislature during the sessions held in the years 1907 to 1913 inclusive.

In this way The Execution Act was consolidated by 1909, 9 Edw. VII, c. 47 but an important amendment had been made in the provisions governing exempted tools and equipment by 1899, 62 Vict., c. 7, s. 1. Prior to this time, as we have seen, the relevant provision was simply that tools and equipment of, or chattels used in, the debtor's occupation should be

exempt to the value of \$100. The 1899 provision as contained in 1909, 9 Edw. VII, c. 47, s. 3 (f), however, stated that if a specific article claimed as exempt exceeded \$100 in value and there were not other goods sufficient to satisfy the writ, such article might be sold by the sheriff who was then required to pay \$100 to the debtor out of the proceeds, but no sale of such article was to take place unless the amount bid therefor exceeded \$100 and the cost of the sale. This specific provision was removed from the act as a result of the amendments 1942, c. 16, s. 1 leaving the law in a state of doubt.

The consolidation R.S.O. 1914, c. 80 saw no change either in the nature or the monetary value of the exemptions as contained in section 3 of the 1909 Act. By the Statutes of Ontario 1927, c. 28, s. 6 the monetary limits on exempted household furniture was increased from \$150 to \$200, that on fuel and food from \$40 to \$80, that on animals from \$100 to \$200 and that on exempted tools and equipment from \$100 to \$200. The consolidation R.S.O. 1927, c. 112, s. 2 incorporated this with no other changes.

The amendment 1933, c. 14, s. 2 added "one team of horses and harness" to the list of exempted "animals" and by 1936, c. 56, s. 8 the monetary limit on this particular classification was increased from \$200 to \$400 to reflect the change made three years earlier.

The next statutory revision, R.S.O. 1937, c. 125, saw the exemption provisions essentially unchanged from the Act of 1909. The text of the 1937 revision and subsequent history of the legislation is contained in the body of this report.

